

### **REMARKS**

Claims 1-19 and 21-34 remain pending. Claim 20 has been cancelled. Claims 1, 16, and 21 have been amended. Applicant reserves the right to present the original and other claims in this and other applications. Reconsideration and withdrawal of all outstanding objections and rejections are respectfully requested in light of the foregoing amendments and the following remarks.

Drawing Fig. 3 stands objected to for failing to be designated as PRIOR ART. Corrected drawings in compliance with 37 CFR 1.21(d) are being submitted herewith. Withdrawal of the objection is requested.

Claims 16-20 stand rejected under 35 U.S.C. 101 as being directed to non-statutory subject matter as being directed to a computer program per se. Independent claim 16 has been amended to obviate the rejection, and reconsideration is requested.

Claims 2-9 and 22-29 stand rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. Specifically, the Office Action points to the “independently of each” language as not readily mapping to the written description of the application. Applicant traverses the rejection. The Examiners attention is directed to the specification, including at least paragraphs [0015], [0042], [0155], [0168], and [0185] and corresponding Figures where the limitation of determination criteria being set independently for each of at least two areas is explained in sufficient detail to allow an ordinarily skilled artisan to make and use the invention so as to comply with Section 112. Accordingly, withdrawal of the rejection is requested.

Claims 1, 10-13, 21, and 30-33 stand rejected under 35 U.S.C. 102(a/b) as being anticipated by either U.S. Patent No. 6,621,782 to Nakane et al. (“Nakane”) or U.S. Patent No. 5,237,553 to Fukushima et al. (“Fukushima”). The rejections are traversed and reconsideration is requested.

The present invention, as embodied by independent claim 1 recites a defect management information setting method comprising “dividing the data area into a plurality of partial areas such that logical addresses continue and setting defect management information for each partial area, wherein the plurality of partial areas includes first and second partial areas corresponding to first and second data types for recording thereon.” Neither Nakane nor Fukushima teach or suggest all of the claim limitations recited by claim 1.

For example, Fukushima relates to a data recording and reproducing apparatus having a plurality of operating modes for recording and reproducing data. To the extent that Fukushima teaches “partial areas,” it teaches a PDL area “where a Primary Defect List stores all of the physical addresses of defect sectors,” and a SDL area “where a secondary defect list stores all of the physical addresses of the defective sectors.” Col. 1, ll. 28-35. These are not the partial areas of the claimed invention, however, because they are not divided from “the data area.” Moreover, these areas are not divided “such that logical addresses continue,” as in the claimed invention, but rather, “although these Areas are illustrated as if at one place on the disk. . . the areas are formed at two places allocated at the inner and outer peripheral portions of the disk to secure high reliability according to the Draft Proposal.” Col. 1, ll. 35-39.

In addition, neither Nakane nor Fukushima teach “dividing the data area into a plurality of partial areas . . . wherein the plurality of partial areas includes first and second partial areas corresponding to first and second data types for recording thereon,” as in the claimed invention. As stated above, the alleged “partial areas” in Fukushima do not even appear to be data areas at all. Nakane teaches determining criteria for determining defects and then detecting the defects using this criteria. To the extent that Nakane teaches dividing the data area into a plurality of partial areas, it teaches: (1) that slip replacement method is applied to particular sectors, col. 2, ll. 28-51, and (2) a data recording region is broken into user areas and spare areas, col. 16, ll. 32-43. Even assuming arguendo that these teachings relate to the claimed partial areas, there is no teaching that these partial areas correspond to “first and second data types” as in the claimed invention.

For at least these reasons, claim 1 is submitted to be allowable over the prior art. Claims 2-15 depend either directly or indirectly from claim 1, and are therefore also submitted to be allowable.

Independent claim 21 recites an information recording apparatus comprising “setting means for dividing a data area of the information recording medium into a plurality of partial areas such that logical addresses continue. . . wherein the plurality of partial areas includes first and second partial areas corresponding to first and second data types for recording thereon.” For all of the reasons given above regarding the allowability of claim 1, claim 21 and claims 22-34 dependent thereon are also submitted to be allowable.

Claims 2 and 22 stand rejected under 35 U.S.C. 102(a/b) as being anticipated by or in the alternative under 35 U.S.C. 103(a) as being obvious over either Nakane or Fukushima or further in view of Okazaki and the acknowledged prior art. The rejections are traversed and reconsideration is requested.

Claims 2 and 22 depend, respectively, from claims 1 and 21. For whatever Okazaki teaches regarding independently establishing defect criteria, Okazaki does not cure the deficiencies of the prior art cited above. Accordingly, claims 2 and 22 are submitted to be allowable.

Claims 3, 4, 6, 23, 24, and 26 stand under 35 U.S.C. 103(a) as being obvious over either Nakane or Fukushima or further in view of Okazaki or alternatively the acknowledged prior art. The rejections are traversed and reconsideration is requested.

Claims 3, 4, 6 and 23, 24, and 26 depend, respectively, from claims 1 and 21. For whatever Okazaki teaches regarding the particular limitations recited by these dependent claims, Okazaki does not cure the deficiencies of the prior art cited above. Accordingly, claims 3, 4, 6, 23, 24, and 26 are submitted to be allowable.

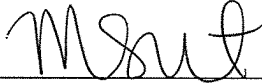
Claims 5, 7-9, 14, 25, 27-29, and 34 stand under 35 U.S.C. 103(a) as being obvious over either Nakane or Fukushima or further in view of JP 05-217298. The rejections are traversed and reconsideration is requested.

Claims 5, 7-9, 14 and 25, 27-29 and 34 depend, respectively, from claims 1 and 21. For whatever JP 05-217298 teaches regarding the particular limitations recited by these dependent claims, JP 05-217298 does not cure the deficiencies of the prior art cited above. Accordingly, claims 5, 7-9, 14 and 25, 27-29 and 34 are submitted to be allowable.

In view of the above amendment, applicant believes the pending application is in condition for immediate allowance.

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Respectfully submitted,

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